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Sen. Patricia Miller, Chairperson
Sen. Vaneta Becker
Sen. Gary Dillon
Sen. Beverly Gard
Sen. Connie Lawson
Sen. Ryan Mishler
Sen. Marvin Riegsecker
Sen. Billie Breaux
Sen. Vi Simpson
Sen. Connie Sipes
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Rep. Timothy Brown
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Rep. Richard Dodge
Rep. David Frizzell
Rep. Don Lehe
Rep. Charlie Brown
Rep. Craig Fry
Rep. Carolene Mays
Rep. David Orentlicher
Rep. Scott Reske



HEALTH FINANCE COMMISSION

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MEETING MINUTES¹

Meeting Date: September 29, 2005
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington St.,
Senate Chamber
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Patricia Miller, Chairperson; Sen. Vaneta Becker; Sen. Gary Dillon; Sen. Ryan Mishler; Sen. Connie Sipes; Sen. Timothy Skinner; Rep. Timothy Brown; Rep. Robert Behning; Rep. Mary Kay Budak; Rep. Richard Dodge; Rep. David Frizzell; Rep. Don Lehe; Rep. Charlie Brown.

Members Absent: Sen. Marvin Riegsecker; Sen. Connie Lawson; Sen. Beverly Gard; Sen. Vi Simpson; Sen. Billie Breaux; Rep. Craig Fry; Rep. Carolene Mays; Rep. David Orentlicher; Rep. Scott Reske.

The fourth meeting of the Health Finance Commission was called to order at 10:30 A.M. by Chairperson Miller.

Carol Cutter, Deputy Commissioner of the Health Issues Division of the Indiana Department of Insurance (DOI), reported on an issue raised at the September 8, 2005, meeting regarding the Department's timely response to complaints filed with the agency. She testified that the Department had responded within their procedural time lines to Dr. Wolf's complaint regarding payments from insurers. Ms. Cutter stated that Dr. Wolf had met personally with Sally McCarty, the previous Commissioner of DOI. At that meeting, it was determined that the claims processing procedure in Dr. Wolf's office was responsible for the delay in his receivables.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Bettye Foy, Deputy Commissioner of the Consumer Services Division of DOI, stated that the Department annually receives and processes over 60,000 complaints made via telephone and 5,000 written complaints. She reviewed the complaint process and the processing time lines followed by the Department. She added that the Department may impose fines if companies do not respond within a defined time period to enforce compliance.

Senator Miller requested that the Department report back to the Commission on the number of reassignment complaints received annually.

Scott Minier, Legislative Liaison for the Department of Education, reviewed studies available on the effects of healthy eating on learning. (See Attachment A.) He commented that many decisions made with regard to the effect of healthy eating on learning outcomes are based on intuitive feelings and not on evidence-based research. Of the studies that have been done, he explained some showed problems with the research design, lacked theoretical foundation, or were otherwise flawed. Much of the available research was performed outside the United States, and the findings have limited applicability to U.S. students. Mr. Minier reported that of the studies reviewed, two findings appeared credible: (1) in the short term, breakfast programs appear to have a positive impact on student learning; and (2) iron deficiencies do cause learning problems if the deficiency is severe enough to cause anemia.

Beth Foland, RD, from the School and Community Nutrition Programs of the Department of Education commented that the Fresh Fruit & Vegetables Program was added as a permanent program last year. (See Attachments B, C, and D.) Ms. Foland stated that under the School Lunch Program, meals must meet the Dietary Guidelines for Americans. Additionally, portion sizes are age appropriate. She explained that school cafeterias are required to be self-supporting, which is why they resort to sales of ala carte items. However, if a child purchases the School Lunch Program plate, the cafeteria gets a rebate. The purchase of ala carte items and vending sales reduce the amount of the rebate, so schools have an incentive to encourage participation in the School Lunch Program. Ms. Foland said that Indiana schools are in varying stages of implementation of PL108-265. Under this federal law, school corporations must develop wellness policies; individual schools may then adjust the corporation policy to fit specific circumstances.

In response to Commission members' comments, Ms. Foland stated that the industry has made some changes to products offered in the School Lunch Program. Pizza may have whole wheat crust, and the portion sizes are controlled. Hot dogs offered are usually turkey. She emphasized that the whole menu and not one meal in isolation should be analyzed before drawing conclusions regarding the nutrition value of the program. When asked to elaborate on the ala carte lines, she responded that these lines carry foods the children like and the cafeteria makes a profit on these items. Some schools have continued ala carte sales but have selected healthier choices such as baked potato chips. Schools are also reported to have done pricing checks to encourage healthier choices. She said that the schools that have made these changes may be making more money than before.

In response to the comment that a mandate for healthy foods should constitute a mandate to the Department of Education for what foods are made available in the schools, Ms. Foland stated that the federal statute mandates the wellness policies. Each corporation and the individual schools determine on a case-by-case basis what items should be sold in concession stands and school bookstores. Fund raisers such as candy sales may be counter-productive to building healthy eating habits as is the practice of rewarding good behavior with cake or candy. Ms. Foland concluded by describing the USDA website that can be used to assist schools in formulating a wellness policy and to see what other states are doing with regard to wellness planning.

Suzanne Crouch, the Director of the Coordinated School Health Program, described the program, which is a partnership between the Department of Education and the Department of Health. The program is funded by an \$8 M federal grant. (See Attachments E, F, G, and H.) The Coordinated School Health Program is described as a process rather than a separate program because all the necessary components are in every school. The process is intended to concentrate and coordinate the components on the over-all well-being of students. Ms. Crouch stated that the program does not cost a school anything, but schools do need education and guidance on developing the process.

Ms. Crouch commented that measuring student growth is a difficult issue for schools. She stated that most data on the appropriate body mass index, BMI, related to overweight and obesity is focused on adults, not children. She said that by visual observation, about 1/3 of children in the classroom are overweight. This is so prevalent that behavioral norms have become more accepting of overweight children. She discussed a pilot program in which some schools have agreed to collect height and weight information on a voluntary basis. With regard to physical activity, Ms. Crouch said that emphasis on academic achievement and increasingly limited resources have resulted in reductions in physical education and recess breaks. Transportation limitations have further resulted in the curtailment of before- and after-school programs, as well. The state of Illinois mandates daily physical education, but the schools do not have the facilities, the teachers, or the time to implement the mandate.

Commission discussion followed regarding why schools would want to prioritize the implementation of this program and whether the goal of increasing children's physical activity requires a structured approach. Additional comments questioned what items and activities the Coordinated School Health Program grant would fund. Ms. Crouch concluded by stating that the children in schools today need assistance with various life problems in order to be able to learn. Coordinated School Health Programs that could assist them with these problems do not have to cost a lot of money.

Mr. Frank Bush, representing the Indiana School Boards Association, stated that the school boards and superintendents supported the legislation on school nutrition and physical activity last year. He commented that the Association helps the school boards with policy issues. He has been speaking with school boards about their responsibility in formulating wellness policies and forming advisory councils. Mr. Bush said the Association has been advising school boards that wellness policies should consider the types of vending machine products offered and the activity levels of all their students. He commented that there is no doubt that Type 2 diabetes prevalence is increasing among young people and needs to be addressed, but that schooling has become an accountability issue and academic time is necessary to address the standards being set.

Commission questions and discussion followed regarding how to communicate the message that healthy children are better able to learn, which should also impact test scores. Mr. Bush commented that the federal legislation may have this result. He added that teaching and learning in school is still going on, but more funds need to be provided for remediation. He also said that school vending contracts are not always signed by the school board but, instead, by a school administrator. He suggested that vending machines need to be closed during lunch hours and that this should be enforced.

Mr. Scott Coffel was asked by the Indiana Vending Council to relate the experience of his vending company with identifying and placing healthier products in school vending machines. Mr. Coffel's vending company supplies products to 25 South Bend high schools and middle schools. He stated that schools have asked for vending so that children can purchase snacks for after-school programs. The individual schools and school boards decide when machines

are open for sales; middle school's machines operated by his company are on timers, while the hours of operation may vary in individual high schools. He noted that on a per-student, per-week basis, middle school sales average \$0.25 and high school sales average \$0.42.

Mr. Coffel said that in response to schools that were interested in selecting vending products that are more nutritious, his company started investigating how to select such products. He noted that there is no nutritional expertise available to the schools or the vendors that provides guidance on selecting healthier products. It is also difficult to determine what products meet the definition of "healthier" or that meet nutritional guidelines. With regard to providing fresh food items, he stated that the vending equipment is very expensive, while the markup is low on the products. Processed snack foods are not a problem in this regard for vendors. Mr. Coffel's company examined the problems and implemented a reduction in the size of the products dispensed and changed the machine signage to denote healthier products. He noted that the company received no feedback from the schools afterwards. When contacted later by wellness coordinators, he commented that the coordinators did not know what products were in the machines in their schools. Mr. Coffel suggested that a rating system with regard to what is a healthy product should be developed and that nutrition education and the benefits of physical exercise should be addressed by the schools as well.

Commission questions followed with regard to whether the Indiana Vending Council supported the bill. The Council did support the bill last year.

Discussion of Proposed Drafts

Chairperson Miller announced that no votes would be taken on any bill draft at this meeting. She noted that the Commission requires 13 members for a quorum. Drafts will be distributed before the next meeting.

School Vending, PD 3091(See Attachment I.) -

Senator Miller asked for comments or parties desiring to speak on the school vending draft. There were no public comments.

Senator Becker commented that the basic bill draft is the final draft version from the 2005 session. It is a nutrition and wellness bill that goes further than the federal mandates. She added that this bill was supported by everyone in the last session except the Soft Drink Association. She stated that the draft may not need the provision that allowed for a phase-in of healthy products over time in recognition of new policy of the American Beverage Association.

School Health Measurements, PD 3156 (See Attachment J.) -

Senator Dillon referred to a presentation on disease management that was made in the Joint Select Committee on Medicaid Oversight by Dr. Thomas Inui on September 28, 2005. He commented that this presentation stressed the value of accurate data as essential to determine if interventions are working. Data is essential to determine the extent of the problem and to measure the progress of interventions. Senator Dillon thought that a voluntary program collecting students' height and weight probably would not provide good data because of the opportunity for self-selection. He commented that data on school children's height and weight would allow for a scientific evaluation and observation-based program to address the problem of childhood obesity and overweight.

Commission discussion followed with regard to confidentiality, data collection, and the identification of geographic pockets. Additional questions were asked with regard to the

possibility of sampling the population, necessary intervals for data collection, and the usefulness of the data.

Long Term Care Moratorium, PD 3088 (See Attachment K.)-

Senator Miller advised the Commission members that the administration is still trying to determine features they believe are necessary for a moratorium. The administration will testify before the Commission on this issue on October 20, 2005. She added that the current draft exempts hospitals and continuing care retirement communities.

Faith Laird, representing the Indiana Health Care Association (IHCA), distributed a historical comparison and time line of the comprehensive care bed inventory and Certificate of Need program (CON). (See Attachment L.) Ms. Laird stated the IHCA supports a nursing facility moratorium as long as there are no exceptions. However, the Association believes that facilities currently under construction should have the opportunity to be certified and licensed on completion. Ms. Laird observed that with no CON program in place, the number of beds and facilities licensed in the state has been dropping. She attributed the reduction of facilities and beds to the Medicaid reimbursement occupancy penalty.

Tim Kennedy, representing the Indiana Hospital and Health Association, testified supporting the exemption of hospitals from a moratorium. Hospital beds that are operated as nursing facility beds are licensed as hospital beds. These are often transitional beds with services reimbursed by Medicare. Only 30 hospitals currently have comprehensive care beds, and the units are 20 to 30 beds. He added that state statute already limits the number of beds a hospital may convert to a maximum of 50 beds, and that when CON expired for nursing facilities, the limit on hospital bed conversions remained in place.

Jim Leich, representing the Indiana Association of Homes and Services for the Aging, stated that the Association would like to see an exemption for Continuing Care Retirement Communities (CCRC). These entities need flexibility to provide for the long term care needs of their communities.

The question was raised with regard to whether these entities can admit patients to their facilities who are not enrolled in the lower levels of community care. Mr. Liech responded that the individual facilities have various requirements, but they can choose to admit patients directly from outside the community.

Bob Decker, representing Hoosier Owners and Providers for the Elderly (HOPE), stated that his organization supports the concept of the moratorium. However, he said that the Commission should consider allowing projects under construction to be grandfathered for licensure and certification.

The State Department of Health was asked to report to the Commission the number of facilities and beds that are currently under construction in the state.

Long Term Care Facility Sprinkler Requirements

Senator Miller announced that the Fire Safety Committee will deal with the issue of long term care facility sprinkler requirements.

Surrogacy and Infertility Requirements Draft (See Attachment M.)

Casey Kline, Staff Attorney, reviewed definitions included in the Assistive Reproductive

Technology (ART) draft. Mr. Steve Kirsh was available to explain details of the draft. The draft defines a "gestational carrier" as a woman who carries a child to term but is not biologically related to the child. This definition is differentiated from a surrogate parent who is defined as a female who is biologically related to the child. Mr. Kirsh stated that the draft still maintains the current law providing that surrogacy contracts are not enforceable. He added that the draft would provide a clear definition of who are the legal parents of the child and provides for an evaluation of the applicants as legal parents similar to the procedure used in adoptions.

Commission discussion followed regarding the requirement that intended parents must be married. Senator Miller noted that the current law imposes no criminal penalties for persons participating in surrogacy, while the draft includes criminal penalties that would apply to gestational carriers. Commission discussion addressed the need to include criminal penalties that would apply to persons participating in surrogacy as well as adding criminal penalties that would apply to facilitators of such arrangements. Ms. Kline pointed out areas of the draft dealing with donor compensation that required additional policy direction from the Commission. Senator Miller requested that suggested revisions and comments regarding the draft language be submitted to Ms. Kline.

The next meeting of the Health Finance Commission is scheduled for October 20, 2005, at 10:00 AM in the House Chamber.

The meeting was adjourned at 1:15 PM.